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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/049,354	05/01/2002	Graham Gee	3120.00030	1151

7590 03/22/2004

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EXAMINER

PHAN, HAU VAN

ART UNIT	PAPER NUMBER
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3618

DATE MAILED: 03/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/049,354

Applicant(s)

GEE, GRAHAM

Examiner

Hau V Phan

Art Unit

3618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 and 21-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19, 21-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Acknowledgment

1. The amendment filed on 12/26/2003 has been entered.
2. The requests for continue examination filed on 2/27/2004 has been considered.

Claim Objections

3. Claim 1 is objected to because of the following informalities: Claim 1, line 3 "a container" should be changed to -- the container --. Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. **Claims 1 and 21 are alternatively rejected under 35 U.S.C. 102(b) as being anticipated by Henderson et al. (4,815,761).**

Henderson et al. in figures 1-2 and 5, disclose an apparatus and method for moving a container (34) comprising a frame (18). The frame comprises a handle section (38) and clamping means for clamping the container comprising at least two clamping members (60), which are spaced apart from one another. The clamping members include holding means (48) for holding the container therebetween in a

clamping engagement. The frame and clamping means being arrangable in use to be secured to the container such that the container can rotate relative to the frame and the container can be rolled along a surface and movement of the container being controlled by the handle section.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. **Claims 1-11, 21-28 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dean (4,218,015) in view of Henderson et al. (4,815,761).**

Dean in figure 4, discloses an apparatus and method for moving a container (1). The apparatus comprises a frame having first and second ends. The apparatus includes a handle section (4) connected at the first end and the container secured to the second end of the frame. The container rotated relative the frame and rolled along a surface. The movement of the roller controlled by the handle section. Dean discloses the clamping members, but fails to show the clamping members, which can be moved toward each other.

Henderson et al. in figures 2 and 5, disclose an apparatus (2) for transporting a tank and other diving gear. The apparatus comprises a frame (18) has a handle section (12) and a roller (34). The frame has arms (36) and clamping members (60) having

Art Unit: 3618

holding means (48) that can be moved towards each other between at least first and second positions. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the apparatus for moving a container shown by Dean with the apparatus for transporting a tank having clamping members that can be moved toward each other as taught by Henderson et al. in order to support and secure the container between the frame.

Regarding claims 2-3, Dean discloses the container (1), which is substantially cylindrical and a fluid filled containers.

Regarding claims 4-5, Dean discloses the frame, which is arranged to secure the container such that the container can rotate relative to the frame and the container can be rolled along a surface of the ground. The container rolled along a surface or the ground by manually pulling or pushing the frame.

Regarding claims 6, Dean discloses the frame in a U-shape. The U-shaped frame turned inwardly toward each other to define coaxial stems (5) engageable in sockets (2) at the ends of the frame, which is arranged to clamp the drum or container as broadly recited.

Regarding claim 7, Dean in figure 2 discloses the frame pivotally connected to the drum, which has first and second stems (5) engageable in sockets (2), which provide clamping members such that the container is clamped between the first and the second clamping members as broadly recited.

Regarding claim 9, Henderson et al. disclose the clamping members, which are spaced apart by a distance greater than the length of the roller.

Regarding claim 10, Henderson et al. disclose the clamping members, which are spaced apart by a distance substantially the same as the length of the roller.

Regarding claims 11, Dean discloses the container, which is clamped and secured to the clamping members in the second position.

Regarding claim 21, Dean discloses a method of moving a roller or a container as being inherent from the disclosed structure of Dean. The method comprises steps of fixing a frame to a drum or a container (1). The container rotated relative the frame and rolled along a surface. The movement of the roller controlled by the handle section.

Regarding claims 22-24, Dean discloses method comprising the steps of pushing the frame or pulling the frame. The container or drum rolled along a surface or the ground by manually pulling or pushing the frame.

Regarding claim 25, Dean discloses the method comprising the step of clamping the drum or the container to the frame by providing the frame in an U-shaped. The U-shaped frame turned inwardly toward each other to define coaxial stems (5) engageable in sockets (2) at the ends of the frame to clamp the drum or the container.

Regarding claim 26, Dean in figure 2 discloses the method of clamping the drum or the container between the first and second clamping members by providing the frame pivotally connected to the drum, which has first and second stems (5) engageable in sockets (2).

Regarding claim 27, Dean in figure 2 discloses the method of clamping the ends of drum or the ends of the container between the first and second clamping members by

providing the frame pivotally connected to the drum, which has first and second stems (5) engageable in sockets (2).

Regarding claim 28, Dean in figure 2 discloses the method of moving first and second clamping members between a first and second positions to clamp the drum or the container by providing the frame pivotally connected to the drum, which has first and second stems (5) engageable in sockets (2) that can be "unengaged" and "engaged" or "clamped", as broadly recited.

Regarding claim 30, Henderson et al. disclose the clamping members having winged nuts (60), which is operated to move the clamping members toward each other.

8. Claims 12-16 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dean (4,218,015) in view of Henderson et al. as applied to claim 1 above, and further in view of Gould et al. (2,716,557).

The combination of Dean and Henderson et al. disclose the frame, but fail to show the width of the frame, which is adjustable.

Gould et al. in figure 10, disclose an extensible and foldable hand truck comprising frame members (11, 12) having reinforcing members (13, 18) that are adjustable in a transverse direction. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the apparatus for moving a container shown by Dean in view of Henderson et al. with the extensible hand truck having frame members that can be adjusted in a transverse direction as taught by Gould et al. in order to support and secure the container with a variable length between the frame members.

Regarding claims 14-16, Gould et al. disclose the frame having first and second side members (11, 12). The first and second side members connect by reinforcement members (13, 18). The reinforcement members are adjustable.

Regarding claim 19, Gould et al. disclose adjustment means (19, 20 and 21), which are located between the first and second side members.

9. Claims 17-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dean (4,218,015) in view of Henderson et al. and Gould et al. (2,716,557) as applied to claim 14 above, and further in view of Henderson et al. (4,815,761).

The combination of Dean, Henderson et al. and Gould et al. disclose the clamping members, but fail to show the clamping members, which are rotatably connected to the first and second side members.

Regarding claim 17, Henderson et al. disclose clamping members (36), which are rotatably connected to first and second side members (18). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the apparatus for moving a container of Dean in view of Henderson et al. and Gould et al. with the apparatus for transporting a tank having clamping members that rotatably connected to the first and second side members as taught by Henderson et al. in order to compress and secure the container between the frames.

Regarding claim 18, Henderson et al. disclose the clamping members, which are secured to the first and second side members through bearings (48).

10. Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dean (4,218,015) in view of Henderson et al. as applied to claim 21 above, and further in view of Atwood (2,503,314).

Dean and Henderson et al. disclose the method of the clamping members, but fails to show a ratchet mechanism.

Atwood in figures 1-4 discloses a stretcher having frame members (16, 17), support members (18, 28) and a ratchet mechanism (19). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the apparatus for moving a container shown by Dean in view of Henderson et al. with the stretcher having frame members having a ratchet mechanism for adjusting the frame members in a transverse direction as taught by Atwood in order to adjust the length of reinforcement member and the clamping members.

Response to Arguments

11. Applicant's arguments filed 12/26/2003 have been fully considered but they are not persuasive. Regarding claims 1-19 and 21-30, in response to applicant's arguments that Henderson et al. disclose an apparatus that clamps a device within the arms of the clamping device while permitting the device to be roller and require an axle for clamping the container. The examiner disagrees, because the features upon which applicant relies (i.e., clamping member for clamping a container therebetween without requiring an axle) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Art Unit: 3618

Conclusion

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hau V Phan whose telephone number is 703-308-2084. The examiner can normally be reached on 7:30AM-4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Johnson can be reached on 703-308-0885. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

HP

Hau Phan

3/17/84

**HAU PHAN
PATENT EXAMINER**